

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff(s),

v.

ANTONIO NUNEZ,

Defendant(s).

Case No. 2:16-CR-332 JCM (PAL)

ORDER

Presently before the court is defendant's motion to exclude "evidence that the defendant has ever been arrested and/or convicted of irrelevant, outdated, and/or crimes committed while" a juvenile, pursuant to Federal Rule of Evidence 609. (ECF No. 22 at 1–2). The government has filed a response (ECF No. 25), but the defendant has not filed a timely reply.

In its response, the government indicates that defendant's motion is not ripe because "the government does not intend to present evidence that the defendant has ever been arrested and/or convicted of any crimes." (ECF No. 26 at 1). However, the government reserves its right to revisit this discussion if it intends to use evidence pursuant to Rule 404(b) or for the purposes of impeachment upon cross-examination. (*Id.* at 1–2).

This court concurs that the present motion is not ripe at this time. *Thomas v. Anchorage Equal Rights Com'n*, 220 F.3d 1134, 1138–39 (9th Cir. 1999) ("Our role is neither to issue advisory opinions nor to declare rights in hypothetical cases, but to adjudicate live cases or controversies consistent with the powers granted the judiciary in Article III of the Constitution."). As the government has not indicated any present intent to offer evidence that would fall within the ambit of defendant's motion, this court holds that the instant motion is not ripe for adjudication. *See id.*; *see also* (ECF No. 26). If an evidentiary issue arises in the future, defendant may pursue a motion at that time.

1 Accordingly,

2 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant's motion to
3 exclude (ECF No. 22) be, and the same hereby is, DENIED.

4 DATED January 27, 2017.

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6 UNITED STATES DISTRICT JUDGE